

REMARKS

The Examiner rejected claims 1 and 2 under 35 U.S.C. §102(b) as being anticipated by Sand. The Examiner rejected claims 1-4 and 40 under 35 U.S.C. §103(a) as being unpatentable over Sand in combination with Knopp. The Examiner rejected claims 32, 33, 35-38 and 42 as being unpatentable over Sand in combination with Kloptek. The Examiner rejected claims 1, 40, and 42 under 35 U.S.C. §103(a) as being unpatentable over Knopp in view of Sand and further in view of L'Esperance. The Examiner rejected claims 37 and 42-44 under 35 U.S.C. §103(a) as being unpatentable over Sand in view of Kloptek and in further view of L'Esperance. The Applicant submits that the prior art does not anticipate nor render obvious the claims, because these references do not disclose or suggest creating a column of denatured tissue through the cornea.

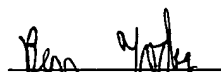
The claims recite varying a focal point of energy directed into a cornea to create a column of denatured tissue through the cornea. Support for this amendment is shown in Figure 36 of the drawings and discussed on pages 56 and 57 of the specification. As discussed in the specification the creation of a column of denatured tissue minimizes regression. Sand does not disclose moving a focal point to create a column of denatured tissue. Although Figure 6 of Sand shows a box designated "Deflection Optics and Control", there is no discussion as to how the controls actually operate. Column 8 of the text discusses compensating for unwanted lateral corneal movement. Sand does not disclose or suggest moving the focal point of energy through the thickness of the cornea to create a column of denatured tissue.

Although Knopp discusses compensating for variations in corneal pressure this reference does not disclose moving the focal point in a manner to create a column of denatured tissue through the cornea. The other references cited by the Examiner also lack this limitation. For all of the above reasons the Applicant submits that the prior art neither anticipates nor renders obvious the claimed invention.

In view of the above it is submitted that the claims are in condition for allowance.
Reconsideration of the rejections is requested. Allowance of claims 1-4, 32, 33, and 36-44
at an early date is solicited.

Respectfully submitted,
IRELL & MANELLA LLP

Dated: May 3, 2004

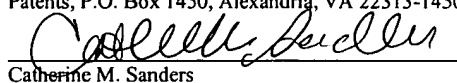


BEN J. YORKS
Reg. No. 33,609

840 Newport Center Drive, Suite 400
Newport Beach, CA 92660
949-760-0991

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the
United States Postal Service as first class mail in an envelope
addressed to: Mail Stop Non-Fee Amendment, Commissioner for
Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 3, 2004.



Catherine M. Sanders
Date 5-3-2004